



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,496	12/11/2000	Brian Feinberg	60136.0128USU2	3605
23552 7590 01/12/2010 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER PARRA, OMAR S	
			ART UNIT 2421	PAPER NUMBER
			MAIL DATE 01/12/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/734,496	Applicant(s) FEINBERG ET AL.	
	Examiner OMAR PARRA	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/09/2009 have been fully considered but they are not persuasive.

In response to applicant's arguments:

"Terreault fails to disclose, teach or suggest receiving at a monitoring and control unit information regarding remote devices, i.e. the identity, type and capability of remote devices", Remarks section page 7. To this matter, the examiner respectfully disagrees.

Terreault teaches that the computer is programmed for a remote mode, in which after receiving status data from the monitored headend, it's able to automatically communicate, through network manager system with multiple remote devices; col. 13 lines 23-56. Terreault specifically teaches that during this mode, the system will automatically contact on-duty or off-duty staff through pager or email messages, col. 13 lines 50-56). In other words, in order for the system to automatically send messages, information about the on-duty and off-duty staff and the remote devices they are using must have been input to the computer (which reads on the 'receiving, at the monitoring and control unit information, identity, type and capability of a plurality of remote devices', as recited on the claim language. No further description was provided in the claim language as what was meant by 'receiving identity, type and capability of remote devices'). Additionally, as mentioned above, the system automatically sends messages to on-duty or off-duty staff through pager or emails. Therefore, by knowing or

Art Unit: 2421

differentiating to send a pager message or an email, the capabilities of the remote devices are clearly marked.

“Terreault also fails to disclose, teach or suggest processing the status received from the monitor and control unit in conformance with the indicated capabilities of remote devices designated by the monitor and control unit to receive such status. Again, Terreault fails to even mention the capabilities of remote devices”, Remarks section page 7. To this matter, the examiner respectfully disagrees.

As discussed above, the system automatically sends messages to on-duty or off-duty staff through pager or emails. Therefore, by knowing or differentiating to send a pager message or an email, the capabilities of the remote devices are clearly marked, col. 13 lines 50-56.

“Terreault further fails to disclose, teach or suggest forwarding the processed status from the monitor and control unit to a communication server...”, Remarks section, page 7. To this matter, the examiner respectfully disagrees.

Terreault teaches that the control computer 23 communicates with network management system 103, for a higher level of network operation, col. 12 lines 46-61; col. 13 lines 3-10.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2421

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **22-27, 33 and 35** are rejected under 35 U.S.C. 102(e) as being anticipated by Terreault (Patent No. 7,254,827).

Regarding claim 22, Terreault teaches a method for monitoring, from a remote location comprising a monitor and control unit (**computer 23, Fig. 1**), operations of a head-end in an information distribution system (**col. 3 lines 54-67; col. 4 lines 38-49**), the method comprising:

receiving, at a monitor and control unit, status from a head-end relating to operations of head-end elements providing content to terminals within a coverage area of a head-end (**the computer receives data and notifications from return path RF detectors on the headends, sub-headends, CMTs and other network devices; col. 4 lines 38-49; col. 9 lines 6-44; col. 12 lines 46-61. The return path RF detectors, as well as the spectrum analyzers and the broadband analyzers, col. 13 lines 3-23, are related or are headend elements**);

receiving, at the monitor and control unit, identity, type and capability of a plurality of remote devices capable of responding to status of elements of the head-end from the monitor and control unit (**the computer is programmed for a remote mode in which after receiving status data from the monitored headend, it's able to**

Art Unit: 2421

automatically communicate, through network manager system, with multiple remote devices. The messages go from paging and e-mails; col. 13 lines 23-56);

processing the status received from the monitor and control unit in conformance with the indicated capabilities of remote devices designated by the monitor and control unit to receive the status **(the computer is programmed for a remote mode in which after receiving status data from the monitored headend, it's able to automatically communicate, through network manager system, with multiple remote devices.**

The messages go from paging and e-mails; col. 13 lines 23-56);

forwarding the processed status from the monitor and control unit to a communication server **(control computer 23 communicates with network management system 103, for a higher level of network operation, col. 12 lines 46-61; col. 13 lines 3-10);** and

sending the processed status received by the communication server to the designated remote devices to present the status to off-site personnel for troubleshooting the operations of the elements of the head-end **(col. 13 lines 23-56).**

Regarding claim 23, Terreault teaches further comprising:

receiving a response message at the communication server from the remote devices sent the status from the head-end; forwarding, from the communication server, the response message to the monitor and control unit; and forwarding the response message, received by the monitor and control unit from the server, to a responsible entity in a targeted head-end, wherein the received response message from the at least

Art Unit: 2421

one remote device includes a command to adjust a parameter of an operation performed by an element at the targeted head-end **(the user can remotely take control of the devices at the headend as a response to the alarms, col. 13 lines 29-50. Following, as stated the flow of communication above -headend communicates to control computer 23, which can control headend devices and communicates with the network manager 103 for a higher level of networking and communication with remote devices- the control signals from the remote device have to follow the same path in opposite direction).**

Regarding claim 24, Terreault teaches further comprising:

receiving indications of error conditions relating to the one or more operations elements of the head-end; **(col. 8 lines 13-31; col. 9 lines 6-35);** and

forwarding one or more alert messages to the one or more remote devices in response to receiving the indications **(col. 13 lines 23-56).**

Regarding claim 25, Terreault teaches further comprising:

polling a plurality of head-ends for status relating to the operations elements of the head-end **(col. 3 lines 42-53; col. 4 lines 38-54).**

Regarding claim 26, Terreault teaches wherein the indicated capabilities is indicated as text, graphics, or a combination thereof **(the status messages are sent on text pager or email messages or the trace signals are sent for display if the**

remote display is for example, an Avatron Spectrum Analyzer; col. 13 lines 35-56).

Regarding claim 27, Terreault teaches further comprising:

receiving an indication of a particular reporting level for the remote devices designated to receive status, and wherein status of the elements of the head-end are forwarded to the remote devices in conformance with the indicated reporting level **(computer 23 causes alarms only if alarm thresholds are reached, col. 13 lines 17-21; and can send alarm messages depending they type of the alarm, col. 13 lines 23-56).**

Regarding claims 33 and 35, Terreault teaches wherein at least one of the plurality of remote devices is a wireless device **(alarm messages can be sent to pager devices which are wireless devices, col. 13 lines 52-56).**

4. Claims **28-32 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Terreault (Patent No. 7,254,827) in view of Pandya et al. (hereinafter 'Pandya', Patent No. 6,671,724).

Regarding claims 28-32, Terreault teaches all the limitations of the claims they depend on. On the other hand, although Terreault teaches monitoring status on performance of a headend, he does not explicitly teach monitoring status of other operations performed at the headend related to status for one or more buffers for

Art Unit: 2421

encoding data, relating to multiplexing, to a particular transport stream and to bit rates for a plurality of data being provided at the headend.

However, in an analogous art, Pandya teaches a method for monitoring from a remote location operations of a headend or server/network resources in a in distribution system (col. 4 lines 40-61). Among the operations monitored by the system: status of one or more buffers used to store encoded data (col. 11 line 24-col. 12 line 29), multiplexing operations (col. 14 line 45-col. 16 line 28), status relating to a particular transport stream (col. 9 line 66-col. 11 line 15) and status related to bit rates of types of data (col. 11 line 36-col. 12 line 29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Terreault's invention with Pandya's featuring of monitoring status of the multiple other headend's operations for the benefit of having a more comprehensive and detailed control of the performance of the headends in all their areas.

Regarding claim 34, Terreault teaches all the limitations of the claim it depends on. On the other hand, although Terreault teaches being able to send messages to pagers, he does not explicitly teach that the remote device is a cellular telephone.

However, in an analogous art, Pandya teaches having cellular telephones as part of the devices that can be a control point or agent (terms given to devices that can monitor or being monitored, respectively; col. 4 lines 30-col. 67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Terreault's invention with Pandya's feature of having a cellular phone being a device that receives monitoring data for the benefit of having the most common mobile device with graphics, text and even video capability.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

Art Unit: 2421

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

OP